

Introduced by Senator Bowen
(Principal coauthor: Assembly Member Corbett)

February 21, 2003

An act to amend Section 1348.8 of the Health and Safety Code, relating to health care service plans.

LEGISLATIVE COUNSEL'S DIGEST

SB 969, as introduced, Bowen. Telephone medical advice services.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a violation of the act's provision a crime. Under the act, a health care service plan that provides, operates, or contracts for telephone medical advice services for its enrollees and subscribers is required to ensure those services comply with certain standards, including that staff providing telephone medical advice are licensed, certified, or registered professionals.

This bill would additionally require a health care service plan to ensure that only staff who are licensed, certified, or registered in specified health care professions provide medical advice to an enrollee or subscriber. The bill would also require a health care service plan to ensure that no staff member uses a title or designation that would cause a reasonable person to believe the staff member is licensed, certified, or registered as a specified type of health care professional unless the person meets those requirements.

Because the bill would add requirements concerning the operation of a health care service plan, the violation of which would be a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1348.8 of the Health and Safety Code
2 is amended to read:

3 1348.8. (a) Every health care service plan that provides,
4 operates, or contracts for, telephone medical advice services to its
5 enrollees and subscribers shall do all of the following:

6 (1) Ensure that the in-state or out-of-state telephone medical
7 advice service is registered pursuant to Chapter 15 (commencing
8 with Section 4999) of Division 2 of the Business and Professions
9 Code.

10 (2) Ensure that the staff providing telephone medical advice
11 services for the in-state or out-of-state telephone medical advice
12 service are licensed as follows:

13 (A) For full service health care service plans, the staff hold a
14 valid California license as a registered nurse or a valid license in
15 the state within which they provide telephone medical advice
16 services as a physician and surgeon or physician assistant and are
17 operating ~~consistent~~ *in compliance* with the laws governing their
18 respective scopes of practice.

19 (B) (i) For specialized health care service plans providing,
20 operating, or contracting with a telephone medical advice service
21 in California, the staff shall be appropriately licensed, registered,
22 or certified as a physician and surgeon pursuant to Chapter 5
23 (commencing with Section 2000) of Division 2 of the Business and
24 Professions Code, as a registered nurse pursuant to Chapter 6
25 (commencing with Section 2700) of Division 2 of the Business and
26 Professions Code, as a dentist pursuant to Chapter 4 (commencing
27 with Section 1600) of Division 2 of the Business and Professions
28 Code, as a dental hygienist pursuant to ~~Section 1758 et seq.~~ *Article*
29 *7 (commencing with Section 1740) of Chapter 4 of Division 2 of*
30 *the Business and Professions Code*, as a psychologist pursuant to
31 Chapter 6.6 (commencing with Section 2900) of Division 2 of the



1 Business and Professions Code, as a marriage and family therapist
2 pursuant to Chapter 13 (commencing with Section 4980) of
3 Division 2 of the Business and Professions Code, as an optometrist
4 pursuant to Chapter 7 (commencing with Section 3000) of
5 Division 2 of the Business and Professions Code, as a chiropractor
6 pursuant to the Chiropractic Initiative Act, or as an osteopath
7 pursuant to the Osteopathic Initiative Act and operating ~~consistent~~
8 *in compliance* with the laws governing their respective scopes of
9 practice.

10 (ii) For specialized health care service plans providing,
11 operating, or contracting with an out-of-state telephone medical
12 advice service, the staff shall be health care professionals, as
13 identified in clause (i) that are licensed, registered, or certified in
14 the state within which they are providing the telephone medical
15 advice services and operating ~~consistent~~ *in compliance* with the
16 laws governing their respective scopes of practice. All registered
17 nurses providing telephone medical advice services to both
18 in-state and out-of-state business entities registered pursuant to
19 this chapter shall be licensed pursuant to Chapter 6 (commencing
20 with Section 2700) of Division 2 of the Business and Professions
21 Code.

22 (3) Ensure that every full service health care service plan
23 provides for a physician and surgeon who is available on an on-call
24 basis at all times the service is advertised to be available to
25 enrollees and subscribers.

26 (4) *Ensure that only staff who are licensed, certified, or*
27 *registered in one of the professions described in Section 4999.2*
28 *provide medical advice to an enrollee or subscriber.*

29 (5) *Ensure that no staff uses a title or designation when*
30 *speaking to an enrollee or subscriber that may cause a reasonable*
31 *person to believe that the staff member is a licensed, certified, or*
32 *registered professional described in Section 4999.2 unless the*
33 *person is a licensed, certified, or registered professional.*

34 (6) Ensure that the in-state or out-of-state telephone medical
35 advice service designates an agent for service of process in
36 California and files this designation with the director.

37 ~~(5)~~

38 (7) Requires that the in-state or out-of-state telephone medical
39 advice service makes and maintains records for a period of five
40 years after the telephone medical advice services are provided,



1 including, but not limited to, oral or written transcripts of all
2 medical advice conversations with the health care service plan’s
3 enrollees or subscribers in California and copies of all complaints.
4 If the records of telephone medical advice services are kept out of
5 state, the health care service plan shall, upon the request of the
6 director, provide the records to the director within 10 days of the
7 request.

8 ~~(6)~~

9 (8) Ensures that the telephone medical advice services are
10 provided consistent with good professional practice.

11 (b) The director shall forward to the Department of Consumer
12 Affairs, within 30 days of the end of each calendar quarter, data
13 regarding complaints filed with the department concerning
14 telephone medical advice services.

15 SEC. 2. No reimbursement is required by this act pursuant to
16 Section 6 of Article XIII B of the California Constitution because
17 the only costs that may be incurred by a local agency or school
18 district will be incurred because this act creates a new crime or
19 infraction, eliminates a crime or infraction, or changes the penalty
20 for a crime or infraction, within the meaning of Section 17556 of
21 the Government Code, or changes the definition of a crime within
22 the meaning of Section 6 of Article XIII B of the California
23 Constitution.

